

IN THE HIGH COURT OF GUJARAT AT AHMEDABAD

SPECIAL CIVIL APPLICATION No 9524 of 2002

For Approval and Signature:

HON'BLE MR.JUSTICE D.N.PATEL

- =====
1. Whether Reporters of Local Papers may be allowed : NO
to see the judgements?
 2. To be referred to the Reporter or not? : NO
 3. Whether Their Lordships wish to see the fair copy : NO
of the judgement?
 4. Whether this case involves a substantial question : NO
of law as to the interpretation of the Constitution
of India, 1950 of any Order made thereunder?
 5. Whether it is to be circulated to the concerned : NO
Magistrate/Magistrates, Judge/Judges, Tribunal/Tribunals?

YASMIYA KAYAMALI SAIYED

Versus

DEPUTY EXECUTIVE ENGINEER (TRANSMISSION), G.E.B.

Appearance:

1. Special Civil Application No. 9524 of 2002
MR BHARAT T RAO for Petitioner No. 1
MR AD OZA for Respondent No. 1
MR KL PANDYA AGP for Respondent No. 2-3
-

CORAM : HON'BLE MR.JUSTICE D.N.PATEL

Date of decision: 29/07/2004

ORAL JUDGEMENT

1. The present petition is preferred under Article

226 of the Constitution of India, whereby the petitioner has sought a writ against the respondents for performing statutory duty of giving electricity connection to the petitioner.

2. Learned advocate appearing for the petitioner submitted that the electricity connection was already granted by the respondents on 3-10-2001. Nandasan Gram Panchayat issued "No Objection Certificate" dated 19-4-2001 and since then the petitioner was enjoying the said electricity connection.

3. Learned advocate appearing for the petitioner submitted that the order was passed by the Collector, Mehsana District, Mehsana on 4-2-2000 to the effect that the construction of the present petition cannot be regularised. Similarly, Nandasan Gram Panchayat issued a letter dated 21-2-2002 whereby the petitioner was directed to vacate the premises. In this context learned advocate for the petitioner submitted that Appeal NO.JMN/MSN/29/00 was preferred on 16-6-2000 before the Secretary (Appeals), State of Gujarat, Revenue Department, and the same is still pending before the Secretary (Appeals).

4. The main contention of the learned advocate for the petitioner is that till the decision is taken by the Secretary (Appeals) in the aforesaid proceedings, electricity connection may be given at least temporarily. It will be mere a restoration of electricity connection which was granted on 3-10-2001 and disconnected on 19-4-2002.

5. Learned advocates appearing for the respondents no. 1, 2 and 3 submitted that those who are not coming with clean hands, the Court should not grant any relief. The construction of the petitioner is not authorised or legal one. On the contrary, said construction is made on the Government land and hence the petitioner is not entitled to get electricity connection and therefore disconnection of electricity connection by the respondent Board was justified in view of the facts and circumstances of the case. He has submitted that there is no substance in the present petition and the same deserves to be quashed and set aside.

6. I have considered the submissions made by the learned advocates for the petitioner and the respondents. I have also gone through the relevant papers on record.

7. It is an undisputed fact that initially

electricity connection was given by the respondent no. 1 on 3-10-2001 for residential purpose upon "No Objection Certificate" issued by Nandasan Gram Panchayat on 19-4-2001. Thereafter, said electricity connection was discontinued for certain period mainly because of unauthorised construction made by the present petitioner. But as narrated hereinabove, Appeal/Review application filed by the present petitioner before the Secretary (Appeals), State of Gujarat, Revenue Department is pending and the said Authority has granted status-quo, upon the order passed by the Collector. This structure of the petitioner is not allowed to be demolished till pendency of review application before the State of Gujarat. Therefore, the respondents are required to be directed to reconnect the electricity connection upon payment of necessary charges.

8. Looking to the peculiar facts and circumstances of the case and the material on record, the respondents are directed to reconnect Electricity Connection bearing meter No.20522020437 upon payment of necessary fees/charges towards reconnection charges etc. within a period of two weeks from the date of receipt of writ of this Court.

9. Accordingly, this petition is allowed. Rule is made absolute to the aforesaid extent, with no order as to costs. D.S. is permitted.

(D.N. Patel, J.)

__/\Satwara/